

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:19 CV 58**

**JENNIFER LONGO,**

Plaintiff,

v.

**ELIZABETH ASPINWALL**, *individually*  
*and in her official capacity as an employee of*  
*Western Carolina University*, **and WESTERN**  
**CAROLINA UNIVERSITY,**

Defendants.

---

**ORDER**

This matter is before the Court on Defendants' Motion to Dismiss Plaintiff's Complaint (Doc. 8) and Plaintiff's Motion to Amend Complaint (Doc. 10).

Defendants filed their Motion to Dismiss (Doc. 8) and a supporting memorandum (Doc. 9) on March 29, 2019.

On April 11, 2019, Plaintiff filed her Motion to Amend (Doc. 10), a supporting memorandum (Doc. 11), and an Amended Complaint (Doc 12). Plaintiff's Motion to Amend indicates the Amended Complaint is attached to the Motion, and such a presentation would be the preferred method for publishing a proposed amended complaint. However, Plaintiff's Amended Complaint was filed as a separate document.

As Plaintiff filed her Amended Complaint within 21 days from the date of Defendants' Motion to Dismiss, the amendment was accomplished as a matter of right, and Court intervention is not required. See Fed. R. Civ. P. 15(a)(1)(B).

Therefore, Plaintiff's Motion to Amend Complaint (Doc. 10) is **DENIED AS MOOT**.<sup>1</sup>

In light of the filing of Plaintiff's Amended Complaint, Defendants' Motion to Dismiss (Doc. 8) is also **DENIED AS MOOT**.

Signed: April 15, 2019

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf  
United States Magistrate Judge



---

<sup>1</sup> The motion was also subject to summary denial due to a lack of consultation with opposing counsel. See LCvR 7.1(b).